

Message Text

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14

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R 142336Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY DAMASCUS

UNCLAS STATE 174681

FROM EXIMBANK

E.O. 11652: N/A

TAGS: EFIN, US, SY

SUBJECT: EXIMBANK CLAIM

REF: DAMASCUS 3752, DAMASCUS 4348

1. FOLLOWING DESCRIBES STATUS UNDER NEW YORK LAW OF
PROMISSORY NOTES MADE BY BOUSTANY AND ENDORSED TO
EXIMBANK:

PROMISSORY NOTE NUMBER 336 IN THE FACE AMOUNT OF
\$32,251.27 DATED SEPTEMBER 16, 1963 STIPULATES THAT THE
"NOTE SHALL BE ENFORCED AND INTERPRETED ACCORDING TO THE
LAWS OF THE STATE OF NEW YORK, U.S.A." COURTS IN THE
UNITED STATES HONOR THE EXPRESS CHOICE OF LAW OF THE
PARTIES TO A NEGOTIABLE INSTRUMENT. THE NOTE ALSO EX-
PRESSLY PROVIDES FOR PAYMENT IN NEW YORK WHICH, UNDER
NEGOTIABLE INSTRUMENTS LAW, DETERMINES THE APPLICABLE LAW
TO BE NEW YORK.

PROMISSORY NOTE NUMBER 356 IN THE FACE AMOUNT OF
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\$41,807.73 DATED MARCH 5, 1964 CONTAINS NO EXPRESS CHOICE

OF LAW. HOWEVER, THE PLACE OF PAYMENT IS SPECIFIED AS
NEW YORK WHICH, AS STATED ABOVE, UNDER U.S. NEGOTIABLE

INSTRUMENTS LAW, DETERMINES THE APPLICABLE LAW.

THE NEW YORK STATUTE OF LIMITATIONS WITH RESPECT TO
PROMISSORY NOTES IS SIX YEARS FROM THE DATE OF ACCRUAL
OF THE CAUSE OF ACTION. THE CAUSE OF ACTION ACCRUES FROM
THE DATE OF MATURITY WHICH, FOR THE SUBJECT PROMISSORY
NOTES, WAS THE DATE OF DEFAULT IN PAYMENT. HWOEVER, NEW
YORK LAW PROVIDES THAT WHEN A CAUSE OF ACTION ACCRUES
AGAINST A PERSON WHO IS OUTSIDE NEW YORK, THE TIME WITH-
IN WHICH THE ACTION MUST BE COMMENCED IS TO BE COMPUTED
FROM THE TIME HE COMES INTO THE STATE. UNDER NEW YORK
LAW, THEREFORE, THE STATUTE OF LIMITATIONS HAS NOT
STARTED TO RUN WITH RESPECT TO THE PROMISSORY NOTES. KISSINGER

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Message Attributes

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Draft Date: 14 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
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Disposition Approved on Date:
Disposition Authority: n/a
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Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
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EO Systematic Review
04 MAY 2006

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Review Withdrawn Fields: n/a
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To: DAMASCUS
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